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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,780	10/30/2003	Eric T. Schmidt	SCET.110325	8881
7590 04/13/2004			EXAMINER	
Marshall Honeyman SHOOK, HARDY & BACON L.L.P. One Kansas City Place 1200 Main Street Kansas City, MO 64105-2118			LEGESSE, NINI F	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 04/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,780	<b>Applicant(s)</b> SCHMIDT, ERIC T.	
	<b>Examiner</b> Nini F. Legesse	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date <u>10/30/03</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|--|

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 5, 6, 11, and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (US Patent No. 5,297,796).

Peterson discloses a golf swing monitoring system comprising:

- A camera (36);
- A display for displaying real-time images received by said camera (38), wherein said display being located in a plane substantially parallel to a simulated activity playing surface (see Figs. 1-3);
- Wherein at least a portion of said display is covered by a transparent protective covering (28);
- Wherein the device is portable (refer to column 2, lines 25-26); and
- A target on said device at which a user swings (the artificial turf sections adjacent the window unit as disclosed on column 3, lines 35-40 is considered as a target area).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2 - 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Kaplan (US Patent No. 2,805,071).

Peterson fails to include the use of a tee. However he teaches that his device could be used with an artificial turf section laid on the base surface 20 or floor 56 adjacent the window 28 (as disclosed in column 3, lines 35+) so that the golfer could hit a practice ball. And Kaplan teaches a golf tee (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tee line Kaplan since it was known in the art that a tee is used to position a golf ball. With respect to the tee to be located directly above a portion of the display, the tee of Kaplan (10) is capable of being positioned directly above a display. And since Applicant has not disclosed that positioning the tee directly above the display solves any stated problem or is for any particular purpose, it appears that the invention would perform equally well with Peterson's device.

**Claims 7-10 and 13-16, and 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Scott (US Patent No. 3,936,055).

Peterson discloses the invention as recited above including locating a projectile proximate the viewing area (column 3, lines 35+) but fails to show a first member connected to a second member, wherein the second member provides an upper surface upon which a user may stand while making a swing, wherein the second member is hingeably attached to the first member and wherein one of the members include a recess for containing said camera. Scott discloses a golf practice device that has a first member (12) connected to a second member (17), wherein the second member provides an upper surface upon which a user may stand while making a swing, wherein the second member is hingeably attached (18) to the first member and wherein one of the members include a recess (68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a platform arrangement similar to Scott in the Peterson's device in order to provide a self contained device can be folded into an easily handled and stored device.

And with respect to the method claims, they appear to be directed to the obvious method of using the Peterson in view of Scott device. Peterson also fails to locate the projectile directly above the viewing area. However, since Applicant has not disclosed that positioning the projectile directly above the display solves any stated problem or is for any particular purpose, it appears that the invention would perform equally well with Peterson's device.

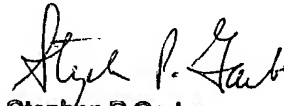
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Garbe can be reached on (703) 308-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NFL  
04/08/04

  
Stephen P. Garbe  
Primary Examiner